IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3449 OF 2006

Vithal @ Baban Narayan Hingne Applicant
versus
The State of Maharashtra Respondent

R.V.Gupta for applicant.
Smt.M.M.Deshmukh, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 19th October 2006

PC :

1. Criminal Application No.3449 of 2006 is heard forthwith.

2. This is an application for bail by the only accused who continues to be detained. In all 13 accused are put to trial in the Sessions Case bearing No.446 of 2004. The applicant has been arrested on 4th April 2004 and continues to be detained. The charge is framed about a year and half back.

3. Despite co-accused being enlarged on bail the applicant has not been so enlarged because in the

opinion of the Trial Court the prosecution witnesses have come and started deposing before the Court. About seven witnesses have been examined. Further, both the co-accused are enlarged on bail on grounds of parity, present applicant cannot be enlarged because he is the prime accused. He is the one who had enimity with the deceased and therefore, hatched the conspiracy and executed it. He has assaulted the deceased with a sharp aged Talvar (Sword). Hence, the principle of parity cannot be extended to him.

4. I have heard learned advocate for the applicant and learned APP. I have perused the statement of complainant Suraj Eknath Badgar so also his supplementary statement. It is clear from a perusal thereof that the role assigned to Rajkumar (co-accused) is that he assaulted the deceased with a Chopper. It is not in dispute that the co-accused Rajkumar Uke has been enlarged on bail.

5. In my view, taking an over all view of the matter and there being no apprehension when 12 co-accused are already enlarged on bail, that the prosecution witnesses would be tampered or that

the accused would not be available to stand trial, the application of present applicant also deserves to be granted. More so, when the applicant is detained since 3rd April 2004. Hence, following order.

6. ORDER :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.78 of 2004 registered with Mulund Police Station, Mumbai subject to furnishing a personal bond of Rs.20,000/- (Rs.Twenty thousand only) with one or two local sureties in the like sum;

(ii) The applicant shall report Mulund Police Station, Mumbai, once a week on every Wednesday between 05.00 p.m. to 07.00 p.m;

(iii) The applicant shall forthwith furnish his residential address to the I.O. and shall not change his residence without prior intimation to the I.O;

(iv) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence;

(v) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail;

(vi) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial;

(vii) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.722 OF 2006
IN
CRIMINAL APPLICATION NO.3449 OF 2006

Vithal @ Baban Narayan Hingne Applicant
versus
The State of Maharashtra Respondent

R.V.Gupta for applicant.
Smt.M.M.Deshmukh, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 19th October 2006

PC :

1. For the reasons set out in the application, the order dismissing Criminal Application No.3449 of 2006 is set aside. Criminal Application No.722 of 2006 is disposed off. No order as to costs.

(S.C.DHARMADHIKARI, J.)